

COURT MINUTES OF CONFERENCE

UNITED STATES OF AMERICA,

v.

CASE NO. 97-CR-98

RANDY YAGER

HON. J. P. STADTMUELLER PRESIDING

DATE: March 24, 2016

TIME SCHEDULED: 2:00 p.m.

COURT DEPUTY/CLERK: Carla Baumel

TIME CALLED: 2:01 p.m.

COURT REPORTER: John Schindhelm

TIME FINISHED: 3:32 p.m.

PURPOSE: Final Pre-trial Conference

PLAINTIFF BY: Carol Kraft, Scott Campbell, and Laura Kwaterski

DEFENDANT BY: Stephen Hurley and paralegal Chevon Kagel

Notes:

2:01 p.m. Appearances. The Court addresses parties and states that it would be prudent to have an in camera discussion regarding a document submitted by the government. The Court will first discuss with the government pursuant to Rule 11; it will be up to counsel's discretion to have court reporter present.

2:03 Government requests court reporter.

2:04 Court confirms that after discussion with the government counsel, the Court will invite Mr. Hurley and his client in for an in camera discussion as well.

2:04 Court proceeds to jury room with counsel for the government and court reporter.

2:30 Defense counsel and Mr. Hurley proceed to jury room.

2:52 Court continues on the record. Based on the comments of counsel and the defendant during the in camera portion of this afternoon's hearing, and consistent with the requirements of Rule 11, the terms of the proposed plea agreement, and the historical development of this case, the Court has satisfied that such plea is acceptable to the Court and will accept it. Moreover, the recommendation of the prosecutors compels the Court to favorably act upon the agreed upon sentence of 15 years imprisonment. The Court is now prepared to move forward with a formal Rule 11 colloquy and allow the parties to supplement the Court's questions that they feel appropriate.

2:56 Court administers oath. Defendant sworn-in; court begins plea colloquy

2:56 Defendant talks about his background, education, family, employment, and medical history; defendant states that he is not under the influence of illegal drugs or alcohol today. Court asks defendant questions regarding his ingestion of high blood pressure medication; defendant states that this medication does/will not affect his understanding nor responses to the Court's questions.

3:03 Defendant states satisfaction with his attorney, general understanding of charges against him and has sufficient opportunity to review the charges against him with Mr. Craig Albee and Mr. Hurley.

3:03 Defendant acknowledges that signature appearing on plea agreement is his; defendant states that he understands the terms in the agreement and has had an opportunity to discuss them with his attorney, and that he is actually guilty of the underlying charges. Denies that he has received any other agreement as part of this disposition.

3:06 Court confirms that the defendant understands the Court's expressed amenability to the parties' proposed agreement to a sentence of 15 years imprisonment plus a term of supervised release.

3:06 Defendant understands.

3:06 Court discusses principles of sentencing; confirms that the defendant will undergo medical testing as part of this process.

3:09 Defendant confirms this.

3:09 Court confirms that the defendant understands the nature of his potential sentence and the felonious nature of the charges to which the defendant is pleading guilty.

3:11 Court explains rights which the defendant may give up if he pleads guilty including the right to presumption of innocence, the right to a jury trial, the right to cross-examine witnesses, the right to testify, and others.

3:16 Court informs defendant of the civil rights he may forfeit by pleading guilty.

3:18 Defendant affirms his desire to plead guilty; waives right to have charges read to him.

3:18 Defendant agrees with factual predicate set forth in the plea agreement; defendant's and government's counsel also accept the factual predicate and decline to ask further questions of the defendant.

3:21 Court asks defendant how he pleads: "Guilty" of both charges in the Two-Count Second Superceding Indictment.

3:22 Court inquires as to indictment.

3:22 Defendant comments.

3:23 Court accepts plea as knowing and voluntary, adjudicates defendant guilty as to Counts One and Two of the Two-Count Second Superseding Indictment.

3:24 Court states that it will not put a definitive date on the presentence report and sentencing at this time. The Court also requests complete medical examination; requests that Mr. Hurley contact the probation department to schedule an initial interview and follow up with the medical issues thereafter. Not later than May 15, 2016, Mr. Hurley shall provide the Court will a time line to complete the presentence report and medical evaluation.

3:27 Mr. Hurley agrees with such request.

3:37 Court comments on defendant's right to counsel.

3:28 Government requests appeal waiver pursuant to Rule 11.

3:29 Court explains that by virtue of an agreed upon sentence, Mr. Yager is waiving his right to appeal.

3:29 Mr. Yager so agrees.

3:29 Mr. Hurley confirms that waiver does not apply to post conviction relief as to ineffective assistance of counsel.

3:29 Court comments.

3:32 Court stands in recess..